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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,558	05/28/2002	Egon Haar	HAAR ET AL-1 PST	8757
25889	7590	11/21/2003	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/031,558

Applicant(s)

HAAR ET AL.

Examiner

Chi Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-36 and 41-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-23, 26, 31-34, 36 and 41-43 is/are rejected.
- 7) ☒ Claim(s) 24, 25, 27-30 and 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

Claim 26 is objected to because of the following informalities: the applicant is advised to remove "with its" in line 2. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 28, since claim 26 is already cited "a guide body", if it's the same "a guide body" then it's advised to change "a" to "said" in claim 28. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21, 22, 23, 26, 31-34, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 2948050.

In regard to claim 21, DE 2948050 teaches a device for manhole comprising a plate-shaped dragging body 19 connected to the closing means frame 11 and projecting

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horizontally into the ground structure below a carrying layer 9 and the plate-shaped dragging body 19 being a separate structural element which supports the closing mean frame 11. In regard to claims 22, 23 at least one telescope part 3 variably extending the installation 1 in upward direction extends from the plate-shaped dragging body 19 downward into the installation and frictionally connected to the plate-shaped dragging body. In regard to claim 26, the telescope part 3 has a lower portion slidably engaging an inner side of a guide body 2. In regard to claims 31-33 a telescope part 3 and the closing means 11 are connected to the plate-shaped dragging body 19 by an element 12. In regard to claims 34, 36 the plate-shaped dragging body 19 has an abutment web 25, radially extending stiffening ribs 23 (See figs. 1, 6).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 29 48 050.

DE 2948050 teaches a device for manhole comprising a plate-shaped dragging body 19 connected to the closing means frame 11 and projecting horizontally into the ground structure below a carrying layer 9 and the plate-shaped dragging body 19 being a separate structural element which supports the closing mean frame 11; At least one telescope part 6 variably extending the installation 1 in upward direction extends from

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the plate-shaped dragging body 19 downward into the installation and frictionally connected to the plate-shaped dragging body; A telescope part 3 and the closing means 11 are connected to the plate-shaped dragging body 19 by an element 12; The plate-shaped dragging body 19 has an abutment web 25, radially extending stiffening ribs 23 (See figs. 1, 6).

DE 2948050 does not teach expressly the method of assembly for mounting a device for manhole. The examiner considers the structural elements for the manhole shown in figs. 1 and 6 are obviously assembled such as position a spacer or a stationary body 1 on the ground, place a telescope part 3 over the stationary body 1, connect a plate-shaped dragging body 19 to the telescope part 3, connect the plate 19 to the closing means 11 and a cover 14, and cover with carrying layer 9.

#### ***Allowable Subject Matter***

Claims 24, 25, 27-30, and 35 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fail to teach or render obvious the claimed combination including the telescope part has a lower portion slidingly engaging an outer side of a stationary body, a guide body, and the dragging body is an annular plate as specifically set forth in the claims.

#### ***Conclusion***


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

CQN



11/13/03



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600